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| 10/087,292      | 03/01/2002  | Kristopher W. Gerulski | 29252/3334          | 3108             |

7590

12/09/2004

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| EXAMINER |
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ALIE, GHASSEM

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| ART UNIT | PAPER NUMBER |
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3724

DATE MAILED: 12/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/087,292

Applicant(s)

GERULSKI, KRISTOPHER W.

Examiner

Ghassem Alie

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2004.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 5 and 8-30 is/are pending in the application.  
4a) Of the above claim(s) 5, 8-26, and 28-30 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 27 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 01 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

***Claim Objections***

1. Claim 5 is objected to because of the following informalities: claim 5 depends from a cancelled claim. Claim 5 depends from claim 1 which has been cancelled. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 27 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which is not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Regarding claim 27, the disclosure fails to teach that the cutter bar is attached to the means for reinforcement. The reinforcement layer is attached to the front base flap which is not attached to the cutting bar. The cutting bar is attached to the base 42 not the reinforcement means 46. See Figs. (1-5, and 14) of the elected species. The elected species I (Fig. 1-5, 14) also indicates that the reinforcement layer 46 is attached to the front base panel 44 not the surface of the base that the cutter bar is attached. See Fig. 3 of the application.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 27 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding Claim 27, "means for reinforcing the dispenser

proximate the cutter bar, the cutter bar being attached to the means for reinforcing” is confusing. It is not clear whether the means for reinforcing is attached to the cutter bar or the means for reinforcing is located proximate to the cutter bar.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

Obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patent ability shall not be negative by the manner in which the invention was made.

7. Claim 27, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Perrin. Regarding claim 27, Perrin teaches a warp dispenser 10 including a trunk 14, 16, 18 defined by the rear wall 14, bottom wall 16, and front wall 18 and a lid 12 hinged to the trunk 14, 16, 18. Perrin also teaches a cutter bar 18 having a base (defined by the main body of the saw-toothed metal 28) and a plurality of teeth extend from the base. Perrin also discloses that each tooth terminating on first and second sides at a valley proximate the base, the base is attached to the trunk 14, 16, 18, and each valley is inherently spaced away from the trunk 14, 16, 18 to which the base is attached by a predetermined registration zone. Each valley of the cutter bar 28 is spaced away from the bottom wall 16 of the trunk 14, 16, 18 by a predetermined registration zone. The registration zone is defined in the specification by the applicant as the distance between the valleys and the bottom edge of the tear flap. The valleys of the cutter bar 28 are spaced by a predetermined distance from the bottom edge of the tear flap 25 as shown in Figs. 7 and 8. Perrin also teaches means 40 for reinforcing the dispenser proximate the cutter bar 28. Perrin also teaches that the cutter bar

Art Unit: 3724

28 is attached to the reinforcing means 40. The cutter bar 28 is attached to the reinforcing means 40 in the same manner that the cutter bar 66 is attached to the reinforcing means 46 in the elected Species (Figs. 1-4 and 14) of the instant application. See Fig. 3 of the instant application. See also Figs. 1-8 and col. 3, lines 31-68 and col.4, lines 1-61 in Perrin.

Perrin does not expressly teach that the registration zone has a dimension within the range of a range of 0.01 to 0.05 inches. However, it appears that width of the registration zone defined by the distance of valley of the cutter bar 28 from the bottom edge of the tear flap 25 is approximately 0.03125 inches which is within the range of 0.01 to 0.05. See Figs. 6-8 in Perrin. The width of the registration zone in Fig. 6 in Perrin appears to be the same as the width of the registration zone in Fig. 2 of the applicant's drawings. In addition, it would have been obvious to a person of ordinary skill in the art to provide Perrin's cutter bar with a registration zoon that is sufficient enough of or in the range of 0.01 to 0.05 inches in order to create a sufficient cutting edge for the dispenser to cut wraps and reduce the chance of inadvertent contact of the user's hand with cutting edge of the cutter bar.

#### ***Response to Amendment***

8. Applicant's arguments filed on 09/07/04 have been fully considered but they are not persuasive. Applicant's argument that Perrin does not teach or suggest the elements of the pending claim is not persuasive. Perrin teaches the elements of claim 27 as has been described in paragraph 6 if this Office action.

Applicant's argument that Perrin does not teach that the cutter is attached to the reinforcing means is not persuasive. Perrin teaches means 40 for reinforcing the dispenser proximate the cutter bar 28. Perrin also teaches that the cutter bar 28 is attached to the

Art Unit: 3724

reinforcing means 40. The cutter bar 28 is attached to the reinforcing means 40 in the same manner that the cutter bar 66 is attached to the reinforcing means 46 in Figs. 1-4 and 14 of the instant application. See Fig. 3 of the instant application which is part of the elected Species I (Figs. 1-4, and 14). In addition, the use of reinforcing means which is attached to a cutter bar in wraps dispensers is well known in the art such as taught by Korte (4,371,104). See Fig. 15-18 in Korte.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Korte (4,371,104), Boccaforte (4,580,709), and Scharf (4,779,780) teach a wraps dispenser including a trunk, a roll of film, a lid, and a cutter bar arched to reinforcing means.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3724

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501.


The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on (571) 272-4514. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9302 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

GA/ga

December 02, 2004

  
Allan N. Shoap  
Supervisory Patent Examiner  
Group 3700